

## REMARKS

In response to the Restriction requirement, Applicants have elected claims 1-19 and 40 of Group II and, for search purposes, the species of compound 123 at page 67 of the application.

In addition, Applicants have amended the application to add new claim 41 directed to the elected compound. Applicants have denoted as "withdrawn" claims directed to non-elected subject matter and indicate below which claims specifically read on the elected species.

Group II is directed to claims 1-19 and 40, covering Formulas (I) or (II), wherein the variables  $R_1$ ,  $R_2$ ,  $R_3$  and  $R_4$  independently do not represent heteroaryl or heterocycloalkyl; the heterocycloalkyl or heteroaryl of variables  $R_5$ , X or Y represents piperidine or pyridine, or variables  $R_3$  or  $R_4$  are connected together to form a 4- or 7-membered heterocycle piperidine or pyridine thereof and the variables a, b and c are as defined in claim 1.

Applicants have elected the claims of Group II with the species of compound 123 (page 68 of the application) with the structure now recited in new claim 41. This species is covered by Formula I of claim 1 wherein  $R_1$  is benzyl (i.e., unsubstituted arylalkyl of claim 1 where the aryl is phenyl),  $R_2$  is 3,4-dichlorobenzyl (i.e., substituted arylalkyl of claim 1 where the aryl is phenyl),  $R_4$  is hydrogen (as recited in claim 1),  $R_5$  is benzyl (i.e., unsubstituted arylalkyl of claim 1 where the aryl is phenyl),  $R_3$  and Y are not present in that "a" and "c" are each 0, and X is piperidine (i.e., a substituted heterocycloalkyl of claim 1 where "b" is 1).

Applicants note that Group II, when describing the  $R_5$  substituents, refers to the heteroaryl or heterocycloalkyl as being limited to piperidine or pyridine. Applicants

interpret this to mean that if R<sub>5</sub> is a heteroaryl or heterocycloalkyl in the elected species then it is limited to one of piperidine or pyridine but that R<sub>5</sub> need not be a heteroaryl or heterocycloalkyl at all in the elected species in order for Applicants to elect Group II. Otherwise, Applicants' election of compound 123 would not fit any of the named Groups. In Applicants' elected species, R<sub>5</sub> is a benzyl (i.e., unsubstituted arylalkyl, as permitted in claim 1), which is neither a heteroaryl nor a heterocycloalkyl.

As to the dependent claims, claims 2 and 3 cover the elected species wherein R<sub>1</sub> is unsubstituted benzyl.

Claim 4 covers the elected species wherein R<sub>2</sub> is substituted arylalkyl (i.e., substituted benzyl with phenyl as the aryl moiety).

Claim 5 covers the elected species wherein the arylalkyl is substituted with 3,4-dichloro.

Claim 7 covers the elected species wherein R<sub>4</sub> is H.

Claim 10 covers the elected species wherein X is a heterocycle.

Claim 11 covers the elected species wherein X is a 6-membered ring with 1 heterocyclic atom (a nitrogen).

Claim 12 covers the elected species wherein X is piperidine.

Claim 13 covers the elected species wherein Y is a bond in that c is 0 (as provided for in claim 1).

Claims 16 and 17 cover the elected species wherein R<sub>5</sub> is unsubstituted arylalkyl of

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claim 1 (i.e., benzyl with phenyl as the aryl moiety).

Claim 18 covers the elected species wherein R<sub>5</sub> is benzyl (unsubstituted aralkyl of claim 1.

Claim 19 covers the elected species in that it refers to a composition thereof.

Applicants have not canceled any claims at this time.

The present response is accompanied by a request for a 2 month extension of time to respond and a check for the required fee for a small entity. The Commissioner is authorized to charge payment of any additional fees required for this communication or credit any overpayment to Deposit Account No. 03-0678.

<p><b><u>FIRST CLASS CERTIFICATE</u></b></p> <p>I hereby certify that this <del>correspondence is being</del> deposited today with the U.S. Postal Service as First Class Mail in an envelope addressed to:</p> <p><b>Commissioner for Patents P. O. Box 1450 Alexandria, VA 22313-1450</b></p> <p><i>Alan J. Grant</i> 4/19/05 <b>Alan J. Grant, Esq.      Date</b></p>
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Respectfully submitted,

*Alan J. Grant*

Alan J. Grant, Esq.  
Reg. No. 33,389

CARELLA, BYRNE BAIN, GILFILLAN,  
CECCHI, STEWART & OLSTEIN  
5 Becker Farm Road  
Roseland, NJ 07068  
Phone: 973-994-1700  
Fax: 973-994-1744